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Federal Communications Commission

WASHINGTON, DC 20554

JUL 26 2005

In the Matter of

Federal Communications Commission  
Office of Secretary

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Talladega and Munford, Alabama)

MB Docket No. 04-19  
RM-10845

**REQUEST FOR LEAVE AND ANSWER TO "OPPOSITION TO 'REQUEST FOR  
LEAVE AND REPLY COMMENTS'"**

Calhoun Communications ("CC"), by counsel, respectfully requests leave, pursuant to 47 C.F.R. § 1.415(d), to submit this answer (the "Answer") to the Opposition To "Request For Leave And Reply Comments" filed by Jacobs Broadcast Group, Inc. (the "Jacobs Opposition") on July 14, 2005, in the above-referenced matter.

The purpose of this Answer is to ensure that correct facts are in the Commission's record in *Talladega and Munford, Alabama: Request for Supplemental Information*, DA 05-1149, MB Docket No. 04-19, RM-10845 (Released April 27, 2005) (the "Supplemental Request").

**I. Introduction**

The Commission has sufficient evidence already on the record to arrive at the conclusion that it should not allow the relocation of WTDR to Munford, Alabama as Munford does not qualify as an independent community. CC does not wish to delay or needlessly burden the Commission's processes by the submission of this Answer. However, CC does wish to ensure that the Commission has accurate and truthful information on the record of this proceeding. CC will, therefore, submit herewith only information necessary to correct errors in Jacobs Opposition.

Specifically, Jacobs asserts that the Commission should rely on 2000 U.S. Census data about "Munford," even though the Munford discussed in the Census data is not the same area as

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the municipality of Munford for which Jacobs seeks an allocation. This same equivocation of different “Munfords” is relied upon in several core arguments in the Jacobs Opposition. The Jacobs Opposition also misstates facts about the newspaper circulation and health care services available in Munford.

## II. Discussion

Simply restating an assertion does not make it true. Yet Jacobs expects the Commission to rely on mere repetition when it states: “A Substantial Percentage of Munford Residents Work in Munford.” *Jacobs Response at 4*. This assertion is based on 2000 U.S. Census data. But, as noted in CC’s Reply comments filed on July 1, 2005:<sup>1</sup>

“the Census figures cited by Jacobs do not report the population within the municipality of Munford. The Census data cited by Jacobs measures the population of the Munford Census Designated Place (“CDP”) – which represents a geographically larger area than the incorporated municipality of the same name. The incorporated municipality has a much smaller population of just 1,508. This amounts to a 39% difference! Given such a large disparity, the Commission cannot tell where the commuters cited by Jacobs actually live and work; do they live and work in the municipality, or in the greater CDP, or in a combination of places? It is impossible to tell. The figures that Jacobs provides are, therefore, meaningless for the required *Tuck* analysis – as the municipality, not the CDP, is the community in question. The CDP is simply irrelevant.”

Yet, the Jacobs Opposition ignores the simple fact that there are different Munfords – and again attempts to confuse the Commission, through the logical fallacy of equivocation, into believing that all Munfords are the same. They are not. Since the CDP and the incorporated municipality of Munford are not the same, the Commission should simply disregard irrelevant Census commuting statistics that document where people in the CDP live and work because they tell you nothing about where people who live in the municipality work. Jacobs cites no figures

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<sup>1</sup> Request for Leave and Reply Comments of Calhoun Communications at 3-4.

documenting commuting by residents of the municipality. Its assertions are, therefore, as irrelevant today as they were when it filed its initial comments. Repetition may give speculation “legs,” but it does nothing to establish the truth of the matter.

Likewise, after its argument that Munford has its own phone book was debunked, the Jacobs Opposition fell back on the position that a Munford section in a county-wide phonebook suffices. *Jacobs Opposition* at 7. But as with the Census data that includes a land mass and population greater than the municipality by itself (which is the relevant unit, as Jacobs claims it as the community for allotment purposes), Jacobs does not demonstrate that the section of the county phone book is limited to those within the corporate limits of the municipality. Therefore, the information tells the Commission nothing except that people in that area recognize a geographic reference (Munford). It does not shed any light on the community status of the municipality under the *Tuck* test.

The Jacobs Opposition also appears to expect that, through mere assertion and repetition, the Commission will regard the Talladega-based “Home Daily” as Munford’s hometown newspaper. Jacobs, however, offers no circulation figures for the Home Daily in Munford, or even in the larger area represented by the Munford zip code.<sup>2</sup> Indeed, it is not even clear such figures have been calculated (as they would not be for a place that is not well served by a particular newspaper, as a newspaper must pay to be rated). At the same time, as noted in the CC Reply, the Anniston Star has substantial paid circulation in the Munford zip code.<sup>3</sup> Given these facts, it appears that the local population has voted with its wallets – it takes the Anniston Star and not the Home Daily.

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<sup>2</sup> Newspaper circulation is typically calculated by zip code.

<sup>3</sup> Request for Leave and Reply Comments of Calhoun Communications at 6.

Finally, the Jacobs Opposition asserts that “the residents of Munford use the Baptist Hospital (sic) in Talladega, which has an office in Munford.” *Jacobs Opposition* at 8. Ignoring the fact that there is no facility named “Baptist Hospital” in Talladega,<sup>4</sup> the Baptist Health System, which is affiliated with only doctor’s office in Munford, is part of a vast network of health facilities in central and northern portion of Alabama. Its headquarters is in Birmingham. Even if some patients are referred by the Munford doctor’s office to the hospital in Talladega, the two hospitals in Anniston (Northeast Alabama Regional Medical Center and Stringfellow Memorial Hospital) are virtually the same distance from Munford as the Talladega hospital. The point that Jacobs Opposition obscures is that Munford has a doctor’s office but no hospitals or other significant health care facilities. It relies on nearby communities, such as Anniston, for its needs.

### III. Conclusion

Repetition of false premises and use of equivocation to hide those false premises do not create truth – let alone provide a basis on which the Commission may act. The Jacobs Opposition, however, attempts to do both. Given Jacobs’s reliance on such repetition and equivocation, it continues to fail to support its assertion that the municipality of Munford is an independent community qualified for a first local service preference.

When put in context with the entire record of this proceeding, the Jacobs Opposition provides nothing to change the basic calculus: Munford is not an independent community under the *Tuck* test. Therefore, the Commission should not allow the reallocation of WTDR to

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<sup>4</sup> Baptist Citizens is the Talladega facility run by Baptist Health System, Inc., a Birmingham-based non-profit organization that runs eight hospitals and other health facilities (with services from 1,700 physicians) in the State of Alabama. (See <http://www.baptistmedical.org/aboutUs/index.asp> and <http://www.baptistmedical.org/aboutUs/ourHospitals.asp>, viewed Jul.26, 2005, and attached hereto as Exhibit A.)

Munford, as it would do nothing but relocate a station into the far more well-served Anniston Urbanized Area from Talladega, which would then lose its only FM service.

Respectfully submitted,



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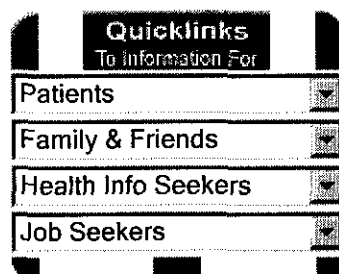
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July 26, 2005

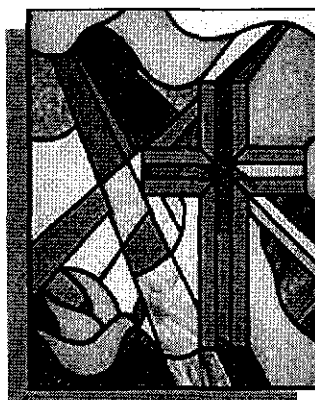
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- WEB AWARDS

### BHS at a Glance

Baptist Health System, Inc. is the largest health care system in Alabama and one of the state's largest employers. BHS is a not-for-profit, 501(c) corporation that owns and manages hospitals and health-related facilities in the state of Alabama.

BHS is a ministry of the churches of the Birmingham Baptist Association whose representatives elect BHS's Board of Trustees. It was founded in 1922 by a group of local Baptist congregations.

All BHS hospitals are accredited by the Joint Commission on Accreditation of Health Care Organizations. All BHS hospitals are approved for participation in Medicare and Medicaid programs.

The Baptist Health Foundation, Inc. is a not-for-profit entity established to solicit donations to support patient care, medical education and clinical research at Baptist Health System.

### Quick Facts About BHS

Hospitals	8
Physicians	Approx. 1,700

Employees	Approx. 8,000
Senior housing	9 facilities
Fitness centers	9
Home care	7 counties served
Number of hospital beds	1,885

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## ABOUT BHS

### Our Hospitals

As the largest healthcare system in the state of Alabama, Baptist Health System includes 9 hospitals across the central and northern portion of the state.

Please select one of our facilities from the list below to learn more about the outstanding hospitals that are a part of Baptist Health System:

- Cherokee Baptist
- Citizens Baptist
- DeKalb Baptist
- Montclair Baptist
- Princeton Baptist
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## CERTIFICATE OF SERVICE

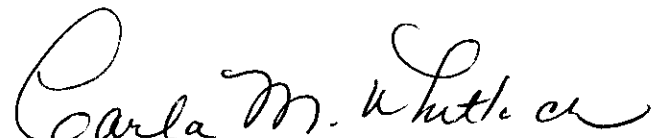
I, Carla M. Whitlock, a secretary at Fletcher, Heald & Hildreth PLC, hereby certify that a true and correct copy of the foregoing Request for Leave and Answer to "Opposition to 'Request For Leave and Reply Comments'" was sent on this 26th day of July, 2005, via First-Class United States mail, postage pre-paid, or as otherwise noted, to the following:

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